Typed: 2/14/80

20 FEB 1980

Director
Federal Bureau of Investigation
Attention: [redacted] Special Agent
General Government Crimes Unit

RLK:LL:JIF:jad

129-11 anx

Robert L. Keuch
Special Counsel to the Attorney General

John F. Kennedy Autopsy Photographs

The former Chief Counsel and Staff Director of the United States House of Representatives Committee on Assassinations, G. Robert Blakey, informed the Criminal Division on August 27, 1979, that a "consortium" was offering to sell "original" John F. Kennedy autopsy photographs to the National Broadcasting Corporation (NBC) and to the American Broadcasting Corporation (ABC). Mr. Blakey indicated that representatives of NBC and ABC had contacted him in late August to advise him of the "consortium's" offer. The television network representatives further informed Blakey that the "consortium" was seeking $100,000 for those photographs and that it was claiming that three of the pictures displayed evidence of tampering. ABC reportedly indicated that the vendor of the photographs was [redacted]

The Federal Bureau of Investigation was requested to initiate an inquiry into the allegations of Mr. Blakey. The Bureau was also instructed to investigate Committee handling of the autopsy photographs to determine: 1) whether any original autopsy photographs are missing; 2) whether authorized copies of the original autopsy photographs are missing; 3) whether unauthorized copies of the original photographs could have been made without the knowledge of the Committee; and 4) whether all of the private consultants who had access to autopsy photographs were contractually barred from creating "unauthorized" copies. The FBI was instructed not to interview [redacted]

The FBI investigation revealed that: 1) all original autopsy photographs remain in the possession of the National Archives; 2) all authorized copies of autopsy photos were returned to the Committee; 3) numerous opportunities existed

Records ✓
Gen. Litigation

Fogel (2)
Keuch

25876

for Committee staff members and other persons, including private consultants, to make unauthorized ("third-generation") copies of the Committee's authorized "second-generation" autopsy photograph copies; and 4) it is unlikely, though possible, that anyone making unauthorized copies of the Committee's authorized autopsy photograph copies did so under a false belief that such conduct was permissible.

Sufficient evidence of numerous opportunities to make unauthorized "third-generation" copies was discovered by the FBI. We are consequently convinced that the source of the pictures now offered for sale cannot be identified through the investigation of all persons who had possession of authorized copies. The only viable alternative to the termination of the investigation into this matter appears to be the questioning of [redacted] the alleged offers to NBC and ABC of "original" autopsy photographs exhibiting evidence of tampering.7C [redacted] target for theft of Government property and fraud violations though it is extremely unlikely that an acceptable case can be developed pursuant to either statute. The primary goal in such a proposed interview should be to determine whether any evidence actually exists to indicate that tampering with J.F.K. assassination photographic evidence, original photographs or official copies, has occurred. A secondary goal should be to discourage the unlawful sale of unauthorized photographs and to recover any photographs which are actually Government property.

As you are aware, an element of a theft of Government property charge in this matter will be that the defendants stole or embezzled the photographs or that they converted or possessed them with knowledge of their stolen or embezzled status. Though it is unlikely that the person who created the unauthorized photographs did so under a claim of right, it is also unlikely [redacted] were involved in that stage of the offense. It will thus be difficult to show their knowledge of the fact that the photographs were stolen or embezzled, absent an admission to the contrary. Additionally, the Department's policy (as set forth at 9-2.024 of the United States Attorneys' Manual) for Title 18, United States Code, Section 641 prosecutions in matters involving the theft of intangible property for the purpose of public dissemination would appear to prohibit such a prosecution. If a Government employee "stole" the information, it may be claimed that his intent was to expose the tampering -- as a

"whistleblower." [redacted] to fall firmly within this declination policy as a [redacted] who has apparently obtained access by "non-trespassory means" to a Government document which he intends to publicly expose. 7C

A section 641 prosecution would also rely upon a very gray area of the law. The results of the FBI investigation suggest that any photographs [redacted] are likely "third-generation" copies made with non-governmental supplies. Thus, only the information -- not the tangible property -- belonged to the Government. There is precedent for a theft prosecution where stolen intangible information is transported in the form of privately-produced tangible copies, but it is only an emerging area of the law. This matter is unlikely to yield a sufficiently glamorous case to attempt to experiment with expansion of the scope of section 641. In our view, a fraud prosecution [redacted] unlikely to result from this investigation. 7C 7C

A gap in our investigation of the J.F.K. assassination will exist until we can examine this alleged evidence of tampering with photographic exhibits used by the Committee. Additionally, it would appear appropriate for the Department to attempt to prevent the dissemination of these photographs, in respect for the contractual agreements between the Kennedy family and the Government. Accordingly, it is requested that the FBI interview [redacted] Copies of investigative reports should be referred to the Criminal Division. [redacted] should not be interviewed without authorization from the Attorney General pursuant to Department of Justice policy, as enumerated at 1-5.420 of the United States Attorneys' Manual (Ch.5, p.28) and at Title 28, C.F.R. § 50.10(f)-(k). 7C 7C